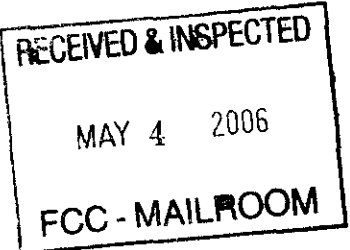


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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554



In the Matter of)
)
Request for Review by Colegio Católico)
Notre Dame) Form 471 Application No. 463208
Decision of the Universal Service)
Administrator)
Schools and Libraries Universal Service) CC Docket No. 02-6
Support Mechanism)
)

TO: Wireline Competition Bureau

REQUEST FOR REVIEW

Pursuant to Sections 54.719(c) and 54.721 of the Federal Communications Commission ("Commission" or "FCC") rules, 47 C.F.R. §§ 54.719(c) and 54.721 (2003), Colegio Católico Notre Dame ("Colegio Notre Dame") hereby appeals the decision of the Schools and Libraries Division ("SLD") of the Universal Service Administrative Company to reduce the requested discount in Funding Year 8 (07/01/2005 – 06/30/2006) from 90% to 70%.

I. BACKGROUND

On February 18, 2005, Colegio Notre Dame filed a FCC Form 471 with the SLD indicating the services for which it was requesting discounts under the schools and libraries universal service support mechanism (the "E-rate program").¹ On Block 4 of its 471 application, Colegio Notre Dame indicated that 1045 out of 799 students enrolled during the 2005-2006 academic year qualified for a free or reduced price lunch under the National School Lunch Program ("NSLP") and requested a 90% discount on all of its funding requests. During Colegio Notre Dame's application review, the SLD requested documentation supporting the eligible

¹ FCC Form 471 No. 463208, Colegio Católico Notre Dame (Exhibit A).

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discount rate for the school through the Consorcio Escuelas Catolicas.² Specifically, the information request, which was delivered to Colegio Notre Dame, requested the following information:

1. The total number of enrolled.
2. Total number of surveys/applications sent out
3. Number of survey/application returned
4. Total number of students that qualifies for the National School Lunch Program, using the Income Eligibility Guidelines (IEG) of the NSLP, per returned surveys/applications
5. Are the surveys/applications and results kept on file.
6. Provide a sample copy of the FILLED OUT SURVEY/APPLICATION with the child's personal information crossed out for confidentiality.
7. A signed certification that reads: "I certify that only those students who meet the Income Eligibility of the National School Lunch Program have been included in Column 5 of item 10b, Block 4 (Worksheet A) of the Form 471."
8. The information must be in writing on the school letterhead and signed by a school official (such as the Principal, Vice – Principal Superintendent, Director of Food Services.

On December 9, 2005 Colegio Notre Dame provided the information requested to the SLD on school letterhead and signed by the school Principal, Sister Bernardine Fontanez.³ In its response, Colegio Notre Dame indicated that there were 1097 students enrolled, that 1097 surveys/applications were sent out and that 976 surveys/applications were returned. It also indicates from those 976 survey/applications returned 813 students qualifies for the NSLP, that the surveys/applications and its results are kept on file and certified that only the students who meet the IEG of the NSLP had being included in Column 5 item 10b of block 4 (worksheet A) of the Form 471. Colegio Notre Dame also provided a sample copy of the socio-economic survey⁴.

² See letter from Fabio Nieto, Schools and Libraries Division, Program Integrity Assurance, to Gilberto Pérez, dated November 29, 2005 (Exhibit B).

³ See Letter from Colegio Notre Dame, Director Sister Bernardine Fontanez to Schools and Libraries Division, Program Integrity Assurance, dated December 9, 2005 (Exhibit C).

⁴ See Results of survey on Exhibit C, response number 4.

On March 01, 2006, the SLD issued a funding commitment decision letter reducing the discount rate from 90% to 70%. The SLD provided no explanation on the reason for the percentage reduction.

It is our assumption that the SLD established the basis for the decision of awarding a 70% discount versus the 90% originally requested on the conflicting information provided by Colegio Notre Dame in the submitted SLD Form 471 and the response to the PIA request for information. (Exhibits D). These numbers are not consistent with the numbers included in the applicant form 471. (Exhibit A) **Exhibit A shows the numbers of students for Block 4, Column 4 (1045) and also gives the required information to determine the correct number for Block 4, Column 5 (799).**

The survey, which had been provided to the SLD during the PIA review process, asked parents to provide the size of the family, the number of students enrolled in the school, and the household income. Out of the 1097 surveys distributed, 976 of the students completed the survey. From the 976 completed surveys, 813 (83.2 %) were determined to be eligible for a free or reduced price lunch under the NSLP in accordance with the Income Eligibility Guidelines of the U.S. Department of Agriculture. Following the SLD's guidelines we can get to the conclusion that in Colegio Notre Dame 813 students, or 83.2 % of its student population, qualified for a free or reduced-price lunch under the NSLP. Using the discount matrix set forth in the FCC rules, a school with 83.2 % of its student population eligible for the national school lunch program qualifies for 90% discount under the schools and libraries universal service support mechanism.

II. COLEGIO NOTRE DAME CORRECTLY DETERMINED THE PERCENTAGE OF STUDENTS ELIGIBLE FOR A FREE OR REDUCED-PRICE LUNCH UNDER THE NSLP.

Colegio Notre Dame filed an SLD Form 471 with accurate information on Block 4, alternately, when, requested to submit sufficient evidence to the PIA to demonstrate the percentage of students eligible for a free or reduced – price lunch under the NSLP (90%).

Under the Commission's rules, the discount available to a particular school is determined by indicators of poverty and high relative cost of service.⁵ First, the level of poverty for schools is measured by the percentage of their student enrollment that is eligible for a free or reduced-price lunch under the NSLP or a federally-approved alternative mechanism outlined in Title I of the Improving America's School Act (IASA).⁶ These federally-approved alternative mechanisms include data comparable to the NSLP data that is collected through surveys. As the Commission has acknowledged, surveys are particularly relevant to schools that many not have access to NSLP data, such as private schools.⁷ Second, a school's high-cost status is derived from rules that classify it as urban or rural.⁸ The Commission's rules provide a matrix reflecting both the school's urban or rural status and the percentage of its students who are eligible for the school lunch program to establish its discount rate, ranging from 20 percent to 90 percent.⁹

⁵ 47 C.F.R. § 54.505(b).

⁶ 47 C.F.R. § 54.505(b)(1); *Federal-State Joint Board on Universal Service, Report and Order*, CC Docket No. 96-45, FCC 97-157, 12 FCC Rcd 8776, ¶¶ 508-09 (rel. May 8, 1997).

⁷ See *School for Language and Communication Development*, Order, 17 FCC Rcd 15166 (rel. Aug. 6, 2002).

⁸ 47 C.F.R. §§ 54.505(b)(3)(i), (ii).

⁹ 47 C.F.R. § 54.505(c).

Because NSLP data is unavailable for Colegio Notre Dame, it used a federally-approved alternative mechanism that relies on actual counts of low-income children to determine the level of poverty.

III. THE SLD ERRONEOUSLY CONCLUDED THAT COLEGIO NOTRE DAME QUALIFIED FOR A 70% DISCOUNT AND FAILED IN NOT REQUESTING ADDITIONAL INFORMATION TO THE SCHOOL AND CLARIFY THE CONFLICTING INFORMATION.

Colegio Notre Dame submitted to the SLD what it was requested information when was asked to answer: (a) the total number of students (1097 students), (b) the number of surveys/applications sent out (1097), (c) the number of surveys/applications returned (976) (d) the number of students qualified to participate in the NSLP, 813 (based on the SLD projection guidelines), (e) if the survey/applications were kept on file, yes, (f) and (g) certification that only students that meet the IEG of the NSLP have been included in Column 5, item 10b of block 4 (worksheet A) of the Form 471. In addition, Colegio Notre Dame provided a sample copy of the socio-economic survey conducted by the school. No additional documentation supporting the eligible discount rate for the school was requested.

IV. CONCLUSION

Colegio Notre Dame provided clear evidence to the SLD that it qualified for a 90% discount under the E-rate program since 813 out of 976 students (83.2 % of the student population) were eligible for a free or reduced price lunch under the NSLP. This data was collected through a survey that was conducted in accordance with the SLD's guidelines. Furthermore, the school provided the SLD with all the information that was requested during the application review process. Therefore, the SLD erred in its decision to reduce the discount rate from the requested 90% to 20%. Colegio Notre Dame respectfully requests that the Commission

reverse the SLD's decision on reducing the discount percentage and grant its application to be funded at a 90% discount.

Respectfully submitted,

COLEGIO CATOLICO NOTRE DAME

/s/ 

Sister Bernardine Fontanez
Director, Colegio Catolico Notre Dame
P O Box 967
Caguas, PR 00726
Tel: 787-743-2386
Fax: 787-744-6464

April 28, 2006

Schools and Libraries Universal Service Program
Services Ordered and Certification Form 471
Application Display

EXHIBIT A**Block 1****Block 2 & 3****Block 4****Block 5****Block 6****Misc**471 Application No: **451813**Form Status: **CERTIFIED - In Window**Out of Window Letter Date: **Not applicable**Funding Year: **07/01/2005 - 06/30/2006**RAL Date: **03/14/2005**Cert. Postmark Date: **02/18/2005**Applicant's Form Identifier: **NOTRE DAME ELEM-05-02****Block 1: Billed Entity Information**Billed Entity Number: **199857**Applicant Name: **Colegio Catolico Notre Dame Elemental**Address: **Calle Santiago Final**City: **Caguas** State: **PR** Zip: **00726**Contact Name: **GILBERTO PEREZ**Address: **CALLE MUNOZ RIVERA #85 FINAL**City: **CAGUAS** State: **PR** Zip: **00725**Type of Application: **SCHOOL**Ineligible Orgs: **N**[Previous](#)[Display Entire Application](#)



Universal Service Administrative Company
Schools & Libraries Division

Date: 11/29/2005

EXHIBIT B

Dear: Gilberto Perez
Phone #- 787-743-1171

Application Number- 450013 (BEN- 157732), 451295 (BEN- 159938), 463208 (BEN- 199857), 475058 (BEN- 199864), 450448 (BEN- 199998), 450707 (BEN- 200008), 452066 (BEN- 200051), 449388 (BEN- 200062), 452375 (BEN- 200253), 450318 (BEN- 200273), 451622 (BEN-200279), 450746 (BEN- 216679), 485356 (BEN- 219945)

The Program Integrity Assurance (PIA) team is in the process of reviewing all Form 471 Applications for schools and libraries discounts to ensure that they are in compliance with the rules of the federal universal service program. We are currently in the process of reviewing your Funding Year 2005 Form 471 Application. To complete our review, we need some additional information. The information needed to complete the review is listed below.

1. For the Billed Entity listed below, we do not have the associated FCC Registration Number (FCC RN). The FCC, in its Fifth Report and Order, requires entities that currently participate in the Schools and Libraries Support Mechanism have an FCC Registration Number. This requirement applies to schools, libraries, non-instructional facilities, consortium leaders, service providers and consultants.

<u>BEN</u>	<u>FCC RN</u>
157732 (Academia Cristo De Los Milagros)	
159938 (Colegio San Benito)	
199857 (Colegio Catolico Notre Dame Elemental)	
199867 (Colegio San Jose Elemental)	
199998 (Academia San Alfonso)	
200008 (Academia Santa Teresita)	
200051 (Colegio Catolico La Merced)	
200062 (Colegio Santiago Apostol)	
200253 (Colegio Corazon de Maria)	
200273 (Colegio Nuestra Senora del Perpetuo Socorro De Humacao)	
200279 (Colegio San Francisco de Asis, Inc.)	
216679 (Colegio San Jose Secundario)	
219945 (Superintendencia Esuelas Catholicas Diocis Caguas)	

If you already have an FCC Registration Number for your Billed Entity (the entity listed in Block 1 of the Form 471), please provide that FCC Registration Number.

If you do not yet have an FCC Registration Number, you can obtain one by applying to the FCC, at www.fcc.gov. Click on link for CORES (Commission Registration System), or go directly at the FCC CORES registration site at <http://www.fcc.gov/cores>.

After obtaining the FCC Registration Number, please provide us the FCC Registration Number.

You will need your Taxpayer Identification Number (TIN) to obtain an FCC Registration Number. For some employers, including state and local government agencies and non-profit organizations, the TIN is the IRS-issued Employer Identification Number (EIN).

2. For FRN 450013, 451295, 463208, 475058, 450448, 450707, 452066, 449388, 452375, 450318, 451622, 450746 & 485356 for Internet Access services, please provide a statement that the services will only be delivered to eligible users at eligible locations. The rules of this support mechanism do not allow for services or products to be provided to residential homes or other non-school/library facilities (i.e., students and teachers may not dial in from home to access the Internet; there can be no community access, etc). "Remote access" where users from any location use their own Internet account to access school or library information, is eligible for funding. If this funding request for Internet Access is strictly limited to services used only at eligible locations by eligible users, then please confirm in writing the following:

"The Internet Access service for which I seek discounts will be strictly limited to providing services only at eligible locations and used only by eligible users. Access to the Internet will not be provided to homes or other non-school or non-library sites."

Signed _____
Name _____
Title _____
Date _____ 2005

The above statement must be signed by the chief school official (such as the principal or superintendent). If you are unable to make such a certification, because the statement is not correct, please indicate such.

3. For the Internet Access funding requests on applications 450013, 451295, 463208, 475058, 450448, 450707, 452066, 449388, 452375, 450318, 451622, 450746 & 485356, I will need to know the make and model numbers of any equipment included in this request and that will be serviced under the maintenance charge. Please also provide a Yes or No answer to the following 8 questions:

Based on the documentation provided it appears that there charges associated with on-premise equipment. The FCC has indicated that equipment at the applicant site is presumed to be Internal Connections, but that this presumption can be overcome in certain circumstances. In order for us to evaluate your request, please provide the following information. You may consult with your service provider for assistance, if desired. Please be sure to sign your response and list your title.

1. Is the leased on-premise equipment an integral component of a Telecommunications or Internet Access service?
2. Will the leased on-premise equipment be provided by the same service provider that provides the associated Telecommunications Service or Internet Access service?
3. Does responsibility for maintaining the equipment rest with the service provider?
4. Will ownership of the equipment transfer to the school or library in the future?
5. Does the relevant contract or lease include an option for the applicant to purchase the equipment?
6. Will the leased equipment be used at the applicant site for any purpose other than receipt of the eligible Telecommunications Services or Internet Access of which it is a part?
7. Will the school's or library's internal communications network function without dependence on the equipment?

8. Are there any contractual, technical, or other limitations that would prevent the service provider from using equipment that would normally be shared in other similar arrangements with other customers?

4. Based upon review of your Form 471 application, we were not able to validate your requested discount percentage of:

90% for Colegio Catolico Notre Dame Elemental

60% for Colegio San Jose Elemental

90% for Colegio Santiago Apostol

80% for Colegio Corazon de Maria

80% for Colegio Nuestra Senora del Perpetuo Socorro De Humacao

80% for Colegio San Francisco de Asis, Inc.

If you choose to validate your original requested discount percentage then please provide the appropriate documentation if one of the following acceptable methods were used:

A. If the school participates in a National School Lunch Program (NSLP), please provide us a signed copy (preferably by the Principal, Vice-Principal, Superintendent or chief school official, or Director of Food Services) of the October Reimbursement Claim Form that the school sends to the state each month. Make sure that the following 3 items are identified:

- 1) The Entity name
- 2) The total number of students enrolled at the entity
- 3) The total number of students eligible for Free/Reduced Lunch Program for the entity

If the school district fills out an aggregate form for the school district, provide the October Reimbursement Claim Form along with a signed letter from a school official (preferably the Superintendent (or chief school official)) that lists the enrollment and Free/Reduced information for each school in the district.

B. If the discount percentage was determined by information obtained from a survey/application, please provide the following information:

- 1) Total number of students enrolled
- 2) Total number of surveys/applications sent out
- 3) Number of surveys/applications returned
- 4) Total number of students qualified for NSLP per the returned surveys/applications
- 5) Are the surveys/applications and results kept on file.
- 6) Provide a sample copy of a FILLED OUT SURVEY/APPLICATION with the child's personal information crossed out for confidentiality.
- 7) A signed certification that reads: "I certify that only those students who meet the Income Eligibility Guidelines of the National School Lunch Program have been included in Column 5 of Item 9a, of Block 4 of the Form 471."
- 8) This information must be in writing on school letterhead and signed by a school official (such as the Principal, Vice-Principal, Superintendent or chief school official, Director of Food Services).

C. If the discount was determined using a different method than what was identified above, please indicate the method that was used and provide all relevant data.

Please clearly state whether all Internet Access requests include the same equipment and meet the same guideline.

5. Based upon review of your Form 471 application, we were not able to validate your requested rural classification for Colegio Nuestra Senora del Perpetuo Socorro de Humacao. The discount percentage for an entity is based on the entity's rural/urban classification and the percentage of students that meet the income eligibility requirements of the National School Lunch Program (NSLP). If the rural classification cannot be verified, the entity will be classified as urban and the discount percentage requested will be modified. Please provide the entity's physical address, the county in which it resides, and any documentation supporting your request for a rural status.

6. For application 485356, FRNs 1345995 & 1346041, please provide a description of service (local and/ or long distance) and the amount you are requesting for each FRN.

Please fax or e-mail the requested information to my attention. If you have any questions, please feel free to contact me.

It is important that we receive all of the information requested so we can complete our review. **Failure to do so may result in a reduction or denial of funding.**

Should you wish to cancel this application, or any of your individual funding requests, please clearly indicate in your response that it is your intention to cancel an application or funding request(s), along with the application number and/or funding request number(s), and the complete name, title and signature of the authorized individual.

Please send the requested information within seven calendar days. If you need additional time to prepare your response, please let me know as soon as possible.

Thank you for cooperation and continued support of the Universal Service Program.

Sincerely,

Fabio Nieto
Schools and Libraries Division
Program Integrity Assurance
Phone: 973-884-8094
FAX: 973-599-6579

[Handwritten signature]



Colegio Católico Notre Dame

Padres Redentoristas

Apartado 967
Teléfono 787-743-2385
Caguas, P.R. 00726

Hermanas de Notre Dame

To: Fabio Nieto
PIA Reviewer
Schools & Libraries Division
Via Fax: 973-599-6579

From: Sister Bernardine Fontanez
Director
Colegio Católico Notre Dame Elemental

EXHIBIT C

Date: December 9, 2005

Subject: Application Number 463208

1. FCC Registration Numbers - 0014366694

2. Remote Access Internet Access certifications:

Annex A

3. Internet Access – On premise equipment:

After verifying the quotations for the schools with the Service Provider, they informed that there is NO On premise equipment included in the Internet Access quotation (Item 21).

4. Validation of requested discount percentage:

1- Total number of students enrolled – 1097

2- Total number of surveys/applications sent out-1097

3- Number of surveys/applications returned-976

4- Total number of students qualified for NSLP per the returned surveys/application-813
 $813 / 976 = 83.2 \% \text{ NSLP}$

5- Are the surveys/applications and results kept on file - YES

6- Sample copy – Annex B



Sister Bernardine Fontánez, SSND
Principal
Colegio Católico Notre Dame
Nivel Elemental
Apartado 967
Caguas, PR 00726



Route

Tina

Delivery Point

TW-B204

05/04/06
10:01:22

OMD

PO#

Sdr COLEGIO CATOLICO NOT

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Office of the Secretary
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